REMARKS

Claims 59-149 are pending in this application. Applicants are amending herewith Claims 66, 67, 76, 81, 92, 93, 99, 111, 112, 136, 137, 143 and 149. Applicants submit that support for these amendments may be found at page 19-20 and generally throughout the application. Applicants are also amending herewith page 19, 3rd paragraph continuing onto page 20 of the present application. Applicants submit that this amendment does not introduce new matter because it is information within the knowledge of those skilled in the art. Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and the following remarks.

The Office Action

The Office Action rejected Claims 59, 99, 104-106, 108-117, 123 and 124 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 4-7, 9-18, 20, 33 and 47 of U.S. Patent No. 6,329,488. Claims 66, 67, 76, 81, 92, 93, 99, 111, 112, 136, 137, 143 and 149 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants respectfully traverse the foregoing rejections.

Rejection Based on Nonstatutory Double Patenting

The Office Action rejected Claims 59, 99, 104-106, 108-117, 123 and 124 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 4-7, 9-18, 20, 33 and 47 of U.S. Patent No. 6,329,488. Applicants are submitting herewith a terminal disclaimer with respect to U.S. Patent No. 6,329,488. Applicants submit that

the terminal disclaim is submitted in accordance with 37 C.F.R. § 1.321(c), along with the fee required by 37 C.F.R. § 1.20(d). In view of the submission of the terminal disclaimer, applicants respectfully request withdrawal of rejection of Claims 4-7, 9-18, 20, 33 and 47 under the judicially created doctrine of double patenting of the obviousness-type.

Rejection Based on 35 U.S.C. § 112

The Office Action has rejected Claims 66, 67, 76, 81, 92, 93, 99, 111, 112, 136, 137, 143 and 149 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The rejection states that the molecular weight of the polyethylene glycol is not identified as weight average or number average in the claims. Claims 66, 67, 76, 81, 92, 93, 99, 111, 112, 136, 137, 143 and 149 are being amended herewith to specify that the molecular weight is weight average molecular weight. Applicants submit that these amendments overcome the present rejection.

Applicants respectfully submit that the foregoing amendments do not introduce new matter, and, therefore, are permissible. The present specification discloses that Carbowax 8000 may be used as the polyethylene glycol of the present invention. Applicants submit that Carbowax 8000 is well recognized in the art to denote polyethylene glycol polymers sold by Dow that has a weight average molecular weight of approximately 8,000. The molecular weight of Carbowax 8000 is also an inherent property of this disclosed material.

Enclosed with applicants' response to the previous Office Action were pages from an Alfa Aesar catalog showing that Carbowax is a tradename for polyethylene glycol and illustrating the different molecular weight polyethylene glycols available. Enclosed with this response are pages

from an article entitled "Characterization of Aqueous Solutions, Liquid Crystals and Solid State of Non-ionic Polymers in Association with Amphiphiles and Drugs." This article discloses PEG 8000, which as shown in the Alfa Aesar catalog is the same as Carbowax 8000. In the table on the right side of page 37 of the article, it is disclosed that PEG 8000 has a weight average molecular weight (M_w) of 8,000. It is submitted that since the fact that Carbowax 8000 has a weight average molecular weight of 8,000 is well know to those skilled in the art and is an inherent property of such material, the amendment of the specification and the claims to include this information does not introduce new matter.

Conclusion

Applicants respectfully submit that the foregoing is a complete response to the Office Action dated September 10, 2003, and that all pending claims are patentable in light of the above amendments and remarks. For at least the reasons set forth above, the present application is believed to be in condition for allowance. Early and favorable consideration is earnestly solicited. The Examiner is invited and encouraged to contact the undersigned attorney of record at (404) 745-2408 if such contact will facilitate examination of the application.

Respectfully submitted,

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